(2) Contracting officers in agencies not covered by the NISP shall follow agency procedures.

[48 FR 42113, Sept. 19, 1983, as amended at 61 FR 31617, June 20, 1996]

4.404 Contract clause.

(a) The contracting officer shall insert the clause at 52.204–2, Security Requirements, in solicitations and contracts when the contract may require access to classified information, unless the conditions specified in paragraph (d) below apply.

(b) If a cost contract (see 16.302) for research and development with an educational institution is contemplated, the contracting officer shall use the clause with its Alternate I.

(c) If a construction or architect-engineer contract where employee identification is required for security reasons is contemplated, the contracting officer shall use the clause with its Alternate II.

(d) If the contracting agency is not covered by the NISP and has prescribed a clause and alternates that are substantially the same as those at 52.204–2, the contracting officer shall use the agency-prescribed clause as required by agency procedures.

[48 FR 42113, Sept. 19, 1983, as amended at 61 FR 31617, June 20, 1996]

Subpart 4.5—Electronic Commerce in Contracting

SOURCE: 60 FR 34744, July 3, 1995, unless otherwise noted.

4.500 Scope of subpart.

This subpart provides policy and procedures for the establishment and use of the Federal Acquisition Computer Network (FACNET) as required by Section 30 of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 426).

4.501 Definitions.

ANSI X12, as used in this subpart, means the designation assigned by the American National Standards Institute (ANSI) for the structure, format, and content of electronic business transactions conducted through Electronic Data Interchange (EDI). ANSI is the coordinator and clearinghouse for national standards in the United States.

Electronic commerce (EC), as used in this subpart, means a paperless process including electronic mail, electronic bulletin boards, electronic funds transfer, electronic data interchange, and similar techniques for accomplishing business transactions. The use of terms commonly associated with paper transactions (e.g., ''copy'', ''document'', ''page'', ''printed'', ''sealed envelope'' and ''stamped'') shall not be interpreted to restrict the use of electronic commerce.

Electronic data interchange (EDI), as used in this subpart, means a technique for electronically transferring and string formatted information between computers utilizing established and published formats and codes, as authorized by the applicable Federal Information Processing Standards.

Implementation convention (IC), as used in this subpart, means the common practices and/or interpretations of the use of ANSI X12 standards. Conventions define how trading partners will use the standards for their mutual needs. The Federal IC will be used by organizational elements of the Federal community and by government organizations and by Trading Partners to exchange data with the Federal community.

Trading partner, as used in this subpart, means a business that has agreed to exchange business information electronically.

Transaction set, as used in this subpart, means the data that is exchanged to convey meaning between Trading Partners engaged in EC/EDI.

[60 FR 34744, July 3, 1995, as amended at 61 FR 39191, July 26, 1996]

4.502 Policy.

(a) The Federal Government shall use FACNET whenever practicable or cost-effective. Contracting officers may supplement FACNET transactions by using other media to meet the requirements of any contract action governed by the FAR (e.g., transmit hard copy of drawings).

(b) Before using FACNET, or any other method of electronic data interchange, The agency head shall ensure that the electronic data interchange

system is capable of ensuring authentication and confidentiality commensurate with the risk and magnitude of the harm from loss, misuse, or unauthorized access to or modification of the information.

[60 FR 34744, July 3, 1995, as amended at 61 FR 39191, July 26, 1996]

4.503 Contractor registration.

(a) In order for a contractor to conduct electronic commerce with the Federal Government, the contractor must provide registration information to the Central Contractor Registration (CCR). Phone (800) EDI–3414 for information regarding FACNET.

(b) The contractor will be required to submit trading partner profile information, including a Data Universal Numbering System (DUNS) number, in accordance with the Federal implementation conventions of the appropriate ANSI X12 transaction set for contractor registration.

[61 FR 39191, July 26, 1996]

4.504 FACNET functions.

(a) For agencies—

(1) Provide widespread public notice of contracting opportunities, and issue solicitations;

(2) Receive responses to solicitations and associated requests for information;

(3) Provide widespread public notice of contract awards and issuance of orders (including price);

(4) Receive questions regarding solicitations, if practicable;

(5) Issue contracts and orders, if practicable;

(6) Initiate payments to contractors, if practicable; and

(7) Archive data relating to each procurement action.

(b) For the private sector—

(1) Access notices of solicitation;

(2) Access and review solicitations;

(3) Respond to solicitations;

(4) Receive contracts and orders, if practicable;

(5) Access information on contract awards and issuance of orders; and

(6) Receive payment by purchase card, electronic funds transfer, or other automated means, if practicable.

[60 FR 34744, July 3, 1995, as amended at 61 FR 39191, July 26, 1996]

4.505 FACNET certification.

4.505–1 Interim certification.

(a) A contracting office is considered to have implemented interim FACNET if—

(1) The contracting office—

(i) Has implemented the FACNET functions described in 4.504(a)(1) and (2), and (b)(1), (2), and (3); and

(ii) Issues notices of solicitations and receives responses to solicitations in a system having those functions;

(2) The contracting office can use FACNET for contracts, not otherwise exempted (see 4.506), that exceed the micro-purchase threshold but do not exceed the simplified acquisition threshold; and

(3) the senior procurement executive of the agency, or the Under Secretary of Defense for Acquisition and Technology for the military departments and defense agencies, has certified to the Administrator of OFPP that the contracting office has implemented interim FACNET.

(b) The senior procurement executive of the agency, or the Under Secretary of Defense for Acquisition and Technology for the military departments and defense agencies, shall notify the private sector via the Commerce Business Daily that a contracting office of the agency has certified interim FACNET. The notice shall establish a date after which it will be required that all responses to solicitations issued by the contracting office through FACNET, must be submitted through FACNET, unless otherwise authorized.

4.505–2 Full certification.

(a) An agency is considered to have implemented full FACNET if—

(1) The agency has implemented all of the FACNET functions described in 4.504;

(2) During the entire preceding fiscal year, more than 75 percent of the agency's eligible contracts, not otherwise exempted (see 4.506), that exceeded the micro-purchase threshold but did not